

## **IC 13-18-21**

### **Chapter 21. Drinking Water Revolving Loan Program**

#### **IC 13-18-21-1**

##### **Establishment**

Sec. 1. The drinking water revolving loan program is established.  
*As added by P.L.126-1997, SEC.30.*

#### **IC 13-18-21-2**

##### **Revolving loan fund; source of funds; repayments; investments; costs**

Sec. 2. (a) The drinking water revolving loan fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of participants, including forgiveness of principal if allowed under federal law.

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

- (1) gifts to the fund; and
- (2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The treasurer of state shall invest the money in the fund that is:

- (1) not currently needed to meet the obligations of the fund; and
- (2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the budget agency may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a participant;
- (4) the Indiana bond bank; or
- (5) any person to which the department, the budget agency, or a participant is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), the cost of administering the fund and the program may be paid from the fund or from four percent (4%) of the money allotted to the state under 42 U.S.C. 300j-12.

(g) All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.11.*

### **IC 13-18-21-3**

#### **Use of funds**

Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to participants for the:

(A) planning;

(B) designing;

(C) construction;

(D) renovation;

(E) improvement;

(F) expansion; or

(G) any combination of clauses (A) through (F);

for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and other activities necessary or convenient to complete these tasks.

(2) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Notwithstanding section 2(g) of this chapter, if an adequate state match is available, the department and the budget agency may use not more than two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten thousand (10,000) persons in Indiana. The department and the budget agency may jointly contract with a person or persons to provide the technical assistance. Funds used under this subsection may not be used for enforcement actions.

(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana to the extent that the money can be obligated for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq., the budget agency and the department shall

develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. This is all the legal authority required by the state for the budget agency and the department to ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. The department has primary responsibility to carry out this subsection.

(e) This chapter does not require the budget agency to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued to finance the program to lose their exemption from federal income taxation.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.12; P.L.184-2002, SEC.25.*

#### **IC 13-18-21-4**

##### **Administration and management of fund and program**

Sec. 4. The department and the budget agency shall administer and manage the fund and program in accordance with this chapter.

*As added by P.L.126-1997, SEC.30.*

#### **IC 13-18-21-5**

##### **Duties of department**

Sec. 5. The department shall do the following:

- (1) Manage all aspects of the program, except as provided by section 6 of this chapter.
- (2) Be the point of contact in relations with the United States Environmental Protection Agency, except as provided in section 6 of this chapter.
- (3) Cooperate with the budget agency in the administration and management of the program.
- (4) Cooperate with the budget agency in preparing and providing program information.
- (5) Review each proposed financial assistance agreement to determine whether the agreement meets the environmental and technical aspects of the program.
- (6) Periodically inspect project design and construction to determine compliance with the following:
  - (A) This chapter.
  - (B) The federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).
  - (C) Construction plans and specifications.
- (7) Negotiate, jointly with the budget agency, the negotiable aspects of each financial assistance agreement.
- (8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and

disbursements to the fund.

(9) Prepare, jointly with the budget agency, annual reports concerning the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

*As added by P.L.126-1997, SEC.30. Amended by P.L.28-2004, SEC.119.*

#### **IC 13-18-21-6**

##### **Duties of budget agency**

Sec. 6. The budget agency shall do the following:

- (1) Manage and implement the financial aspects of the program.
- (2) Cooperate with the department in the administration and management of the program.
- (3) If not accepted and held by the department, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.
- (4) Be the point of contact with participants and other interested persons in preparing and providing program information.
- (5) Negotiate, jointly with the department, the negotiable aspects of each financial assistance agreement.
- (6) Prepare or cause to be prepared each financial assistance agreement.
- (7) Execute each financial assistance agreement.
- (8) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.
- (9) Prepare, jointly with the department, annual reports concerning the fund and the program.
- (10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.
- (11) Enter into memoranda of understanding with the

department concerning the administration and management of the fund and the program.  
*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.13; P.L.28-2004, SEC.120.*

#### **IC 13-18-21-7**

##### **Powers of budget agency**

Sec. 7. The budget agency may do the following:

(1) Employ:

- (A) fiscal consultants;
- (B) engineers;
- (C) bond counsel;
- (D) special counsel;
- (E) accountants; and
- (F) any other consultants, employees, and agents;

that the budget agency considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed in subdivision (1) from money:

- (A) available in the fund; or
- (B) otherwise made available for the program.

*As added by P.L.126-1997, SEC.30.*

#### **IC 13-18-21-8**

##### **Joint powers of department and budget agency**

Sec. 8. (a) The department and the budget agency may:

- (1) provide services to a participant in connection with a loan or other financial assistance, including advisory and other services; and
- (2) charge a fee for services provided.

(b) The department and the budget agency may charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.

(c) A political subdivision may pay fees charged under this section.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.14.*

#### **IC 13-18-21-9**

##### **Priorities for recommending loans; authority to make loans**

Sec. 9. (a) The department shall use a priority ranking system to recommend loans or other financial assistance from the fund. The department shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance

from the fund to or for the benefit of participants.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.15.*

#### **IC 13-18-21-10**

##### **Prerequisites for loans or assistance**

Sec. 10. The budget agency may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

- (1) The loan or other financial assistance must be used:
  - (A) for planning, designing, constructing, renovating, improving, and expanding public water systems and for other activities necessary or convenient to complete these tasks;
  - (B) to:
    - (i) establish reserves or sinking funds; or
    - (ii) provide interest subsidies;
  - (C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or
  - (D) to pay the following:
    - (i) Consultant, advisory, and legal fees.
    - (ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.
- (2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.
- (3) The budget agency shall establish the terms and conditions that the budget agency considers necessary or convenient to:
  - (A) make loans; or
  - (B) provide other financial assistance under this chapter.
- (4) Notwithstanding any other law, the budget agency may establish and implement requirements that:
  - (A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and
  - (B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.16.*

#### **IC 13-18-21-11**

##### **Documentation accompanying loan or other financial assistance**

Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

- (1) All papers and opinions required by the budget agency.
- (2) Unless otherwise provided by rule, the following:

- (A) An approving opinion of nationally recognized bond counsel.
- (B) A certification and guarantee of signatures.
- (C) A certification that, as of the date of the loan or other financial assistance:
  - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
  - (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.
- (D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

*As added by P.L.126-1997, SEC.30.*

#### **IC 13-18-21-12**

##### **Financial assistance agreements**

Sec. 12. A participant receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the participant.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.17.*

#### **IC 13-18-21-13**

##### **Sale of loans**

Sec. 13. The budget agency may sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the budget agency. Proceeds of sales under this section shall be deposited in the fund.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.18.*

#### **IC 13-18-21-14**

##### **Pledge of loans**

Sec. 14. (a) The budget agency may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

- (1) other loans or financial assistance from the fund to or for the benefit of participants; or
- (2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) The budget agency must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; or
- (3) the fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the budget agency.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.19.*

## **IC 13-18-21-15**

### **Interest rate**

Sec. 15. (a) In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (other than a loan to a qualified entity described in IC 13-11-2-164(b)(4)), as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:

- (1) A base or subsidized interest rate that:
  - (A) would be payable by participants other than participants described in subdivision (2) or (3); and
  - (B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.
- (2) A base reduced or more heavily subsidized interest rate that:
  - (A) is payable by a participant with median household incomes that are:
    - (i) not more than the state median household income for an area that is not a metropolitan area, as determined and reported periodically by the federal government; and
    - (ii) not less than eighty-one percent (81%) of the state median household income for an area that is not a metropolitan area; and
  - (B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.



(3) A base of zero (0) or the most heavily subsidized interest rate that:

(A) would be payable on loans made to participants with median household incomes that are not more than eighty percent (80%) of the state household income for an area that is not a metropolitan area; and

(B) may provide that payment of interest is not required during all or part of the estimated construction period of the public water system.

(b) The budget agency, in recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (including all loans to participants that are not political subdivisions) under section 10 of this chapter, may take into account the following:

(1) Credit risk.

(2) Environmental, water quality, and health protection.

(3) Affordability.

(4) Other fiscal factors the budget agency considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans made to different participants in the same interest rate category.

(c) In financing the program, the Indiana bond bank and the Indiana development finance authority shall issue at the budget agency's request:

(1) revenue bonds payable from and secured by participants; and

(2) loan payments made by and to participants.

The budget agency or the state board of finance is not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.20.*

## **IC 13-18-21-16**

### **User charges**

Sec. 16. The budget agency shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the public water system; and

(2) pay the obligations of the public water system.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.21.*

### **IC 13-18-21-17**

#### **Withholding payment from participants**

Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant, may withhold payment of money from that participant and pay over the money to the budget agency or the Indiana bond bank, as directed by the budget director, for the purpose of curing a default. Withholding payment under this subsection may not occur until after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance.

(b) The withholding of payment from the participant and payment to:

- (1) the budget agency; or
- (2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the defaulted loan or other financial assistance.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.22.*

### **IC 13-18-21-18**

#### **Rules**

Sec. 18. The water pollution control board and the budget agency may jointly adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this chapter.

*As added by P.L.126-1997, SEC.30.*

### **IC 13-18-21-19**

#### **Borrowing money; issuance and sale of notes; renewal or extension; maturity; compliance with statutes**

Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes periodically on terms agreed to with the budget agency, and the budget agency may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note

being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

- (1) in the amounts; and
- (2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the budget agency.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the department and the budget agency, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:

- (1) valid and binding obligations of the political subdivision;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

- (1) provisions of this section; or
- (2) actual issuance by a political subdivision of notes under subsection (b);

do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

*As added by P.L.126-1997, SEC.30.*

### **IC 13-18-21-20**

#### **Alternatives to making loans or providing financial assistance**

Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the budget agency may use the money in the fund to provide a leveraged loan program and other financial assistance programs allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) to or for the benefit of participants, including using money in the fund or a supplemental fund, including the supplemental fund established by section 22 of this chapter, to enhance the obligations of participants issued for the purposes of this chapter by:

- (1) granting money to:
  - (A) be deposited in:
    - (i) a capital or reserve fund established under IC 5-1.5 or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or
    - (ii) an account established within a fund described in item (i); or
  - (B) provide interest subsidies;
- (2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the

Indiana bond bank or the Indiana development finance authority if credit market access is improved or interest rates are reduced;  
or

(3) guaranteeing all or part of:

(A) obligations issued by participants; or

(B) bonds issued by the Indiana bond bank or the Indiana development finance authority.

(b) The budget agency may enter into any agreements with the Indiana bond bank, the Indiana development finance authority, or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.23.*

### **IC 13-18-21-21**

#### **Supplemental drinking water and wastewater assistance program**

Sec. 21. The supplemental drinking water and wastewater assistance program is established.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.24.*

### **IC 13-18-21-22**

#### **Supplemental drinking water and wastewater assistance fund**

Sec. 22. (a) The supplemental drinking water and wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of:

(1) participants for the purposes described in section 23(1) of this chapter; and

(2) political subdivisions for the purposes described in section 23(2) of this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the budget agency may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to the department, the budget agency, a participant, the Indiana bond bank, or any other person as provided in the trust agreement or indenture. The state board of finance must approve the form of any trust agreement or indenture before execution.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.25.*

### **IC 13-18-21-23**

#### **Supplemental drinking water and wastewater assistance fund; use of money**

Sec. 23. Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of political subdivisions for the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Pay the cost of administering the supplemental fund and the supplemental program.

(5) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999,*

*SEC.26; P.L.55-2001, SEC.2.*

**IC 13-18-21-24**

**Supplemental drinking water and wastewater assistance fund;  
financial assistance**

Sec. 24. The budget agency shall develop criteria to recommend grants, loans, or other financial assistance from the supplemental fund.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.27.*

**IC 13-18-21-25**

**Supplemental drinking water and wastewater assistance fund;  
authority to make loans**

Sec. 25. (a) The budget agency may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:

- (1) A grant, loan, or other financial assistance may be used:
  - (A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;
  - (B) to:
    - (i) establish reserves or sinking funds; or
    - (ii) provide interest subsidies;
  - (C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or
  - (D) to pay the following:
    - (i) Consultant, advisory, and legal fees.
    - (ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.
- (2) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the budget agency may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a political subdivision under the following conditions:

- (1) A grant, loan, or other financial assistance may be used:
  - (A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems, and other activities necessary or convenient to complete these tasks;
  - (B) to:
    - (i) establish reserves or sinking funds; or
    - (ii) provide interest subsidies;

- (C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or
- (D) to pay the following:
  - (i) Consultant, advisory, and legal fees.
  - (ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.
- (2) A grant may be used for tasks associated with the development and preparation of:
  - (A) long term control plans;
  - (B) use attainability analyses; and
  - (C) storm water management programs.
- (3) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.28; P.L.55-2001, SEC.3.*

#### **IC 13-18-21-26**

##### **Supplemental drinking water and wastewater assistance fund; documentation to accompany financial assistance**

Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the budget agency.

(b) Unless otherwise provided by rule, a loan or other financial assistance must be accompanied by the following:

- (1) A certification and guarantee of signatures.
- (2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:
  - (A) the grant, loan, or other financial assistance; or
  - (B) any security for the loan or other financial assistance.

(c) The budget agency may require an approving opinion of nationally recognized bond counsel.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.29.*

#### **IC 13-18-21-27**

##### **Supplemental drinking water and wastewater assistance fund; financial assistance agreements**

Sec. 27. A participant receiving a grant, loan, or other financial assistance from the supplemental fund shall enter into a financial assistance agreement. A financial assistance agreement under this section is a valid, binding, and enforceable agreement of the participant.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.30.*

### **IC 13-18-21-28**

#### **Supplemental drinking water and wastewater assistance fund; sale of loans**

Sec. 28. (a) The budget agency may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

- (1) periodically;
- (2) at any price; and
- (3) on terms acceptable to the budget agency.

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the budget director.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.31.*

### **IC 13-18-21-29**

#### **Supplemental drinking water and wastewater assistance fund; pledge of loans**

Sec. 29. (a) The budget agency may pledge:

- (1) loans or evidences of other financial assistance; and
- (2) other obligations evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the budget agency.

(c) Notwithstanding any other law, a pledge of property made by the budget agency under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; or
- (3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the budget agency.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

*As added by P.L.126-1997, SEC.30. Amended by P.L.132-1999, SEC.32.*



**IC 13-18-21-30****Use of funds to secure leveraged loan or other financial assistance in connection with wastewater revolving loan fund**

Sec. 30. Notwithstanding any other law, and to the extent permitted by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and the federal Clean Water Act, money in the fund, together with loan repayments to be deposited in the fund, may be used to secure a leveraged loan program or other financial assistance programs established in connection with the wastewater revolving loan fund established by IC 13-18-13-2.

*As added by P.L.104-1998, SEC.4.*